IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2643 of 2005
Date of decision : 22.9.2006.

Smt. Shanti.

.....Petitioner.

Versus

Bajrang Lal & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Hari Om Attri, Advocate
for the petitioner.

Mr. Vinod Gupta, Advocate
for the respondents.

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VINOD K. SHARMA,J.(ORAL)

The petitioner has laid a challenge to the impugned orders dated 30.4.2005 and 7.5.2005 passed by the learned Rent Controller, Hansi declining the request of the petitioner for leading additional evidence.

The petitioner by way of secondary evidence has sought to produce on record the copy of the plaint accompanying the site plan Ex.R-1 placed on record by the respondent herein. The learned Rent Controller came to the conclusion that the plea of the petitioner was not tenable as it was open to the petitioner to place on record the copy of the plaint by way of additional evidence. The learned court further came to the conclusion that the evidence sought to be led is in the nature of affirmative evidence.

The learned counsel for the petitioner contends that as the respondent had produced site plan Ex.R-1, which was actually attached with the plaint, in absence of the plaint it was not possible for the petitioner to effectively prosecute her case. It was also contended that the secondary evidence sought to be produced was necessary for just and proper adjudication of the case.

The learned counsel for the respondents contended that it is for the respondents to explain the relevance of Ex.R1 in absence of the plaint and, therefore, no benefit can be drawn by the petitioner from the fact that the copy of the plaint has not been attached with Ex.R1. The learned counsel for the respondents further contended that placing of Ex.R1 on record would not entitle the petitioner to lead secondary evidence.

I have considered the arguments raised by the parties and find no force in the arguments raised by the learned counsel for the petitioner. The learned trial Court has rightly come to the conclusion that onus of proof on respondents was only qua issue No.2 and the petitioner, therefore, could lead evidence in rebuttal on issue No.2 only and could not be allowed to produce secondary evidence, which is in the nature of affirmative evidence.

There is no illegality or error in the order passed by the learned trial Court which may call for any interference by this Court in exercise of revisional jurisdiction under Article 227 of the Constitution of India.

Dismissed.

September 22,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**